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Appellants' Brief Docket No. 5577-234(RSW9-99-132US1)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Aiken *et al.*

Serial No.: 09/862,642

Filed: May 22, 2001

For: **METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR
SOURCE ADDRESS SELECTION**

Confirmation No.: 8726

Group Art Unit: 2154

Examiner: Aaron C. Perez Daple

Date: April 24, 2006

Mail Stop Appeal Brief-Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF ON APPEAL UNDER 37 C.F.R. §41.41

Sir:

This Reply Brief is filed in response to the Examiner's Answer mailed February 23, 2006.

It is not believed that an extension of time and/or additional fee(s) are required, beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned for under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to Deposit Account No. 09-0461.

II. The Examiner's Answer – Response to Arguments (starting at Page 14)

Appellants will refrain here from readdressing all of the deficiencies with the pending rejections and, therefore, in the interest of brevity, Appellants hereby incorporate herein the arguments set out in Appellants' Brief on Appeal as if set forth in their entirety.

Accordingly, Appellants will only address new arguments made in the Examiner's Answer.

Appellants believe that the Board may find this helpful in evaluating the propriety of the pending rejections.

A. Claims 1-4, 24 and 26

The Examiner's Answer first argues that Appellants' misinterpreted the Examiner's interpretation sections of the Office Actions. *See* Examiner's Answer, page 14. The Examiner maintains that responding to a connection request from a client is the same as "establishing the connection originated by an application executing on a data processing system" because "originating *the connection* does not necessarily require originating *the connection request*." *See* Examiner's Answer, page 14. Appellants respectfully submit that Webster's Dictionary defines the term originating as "initiating." Thus, Appellants maintain that the "Examiner's Interpretation" is not a reasonable interpretation of the claim recitations and ignores the plain language of the claims.

Furthermore, a finding of anticipation requires that there must be no difference between the claimed invention and the disclosure of the cited reference as viewed by one of ordinary skill in the art. *See Scripps Clinic & Research Foundation v. Genentech Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991). Thus, the fact that the Examiner included an "Examiner's Interpretation" in the Actions proves there is at least some difference in the teachings of the references. Otherwise, the reference could be taken at face value.

The Examiner's Answer further states several times that "the features upon which applicant relies ... are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims." *See e.g.*, Examiner's Answer, pages 16, 17, 18. Then, in the following paragraphs, the Examiner points to a portions of Appellants' specification and reads those teachings into Appellants' claims. The Examiner cannot have it both ways. Furthermore, Appellants respectfully submit that the interpretation of the claim terms are clear (*See, e.g.*, Servers 52, 54 and Applications 63 of Figure 1 of the present application) and require no further discussion herein.

The Examiner's Answer further states that the term "application" is not explicitly defined in the specification. *See* Examiner's Answer, page 18. Appellants submit that the term "application" is clearly understood by those having skill in the art. For example, a software program designed to perform a specific task or group of tasks, such as word processing, communications, or database management. The Examiner's Answer misinterprets Appellants' arguments. Appellants' argument is that a session is not an application. Appellants agree that applications are well

known in the art. Accordingly, Appellants respectfully request reversal of the rejections of pending claims for at least these additional reasons.

B. Dependent Claim 2

The Examiner's Answer states that Alteon teaches the recitations of dependent Claim 2. *See* Examiner's Answer, pages 19-20. Appellants submit that the cited reference does not disclose or suggest a selective use of a dynamic network address and a specified network address to originate connections as recited in Claim 2. If a session is interpreted as a connection, then by definition an existing session address cannot be selected to originate a connection as the session already exists. Accordingly, Appellants submit that Claim 2 is separately patentable over the cited references and, therefore, the rejection of Claim 2 should be reversed for at least these additional reasons.

C. Claims 5, 25 and 27

Again, the Examiner's Answer cites to Alteon and postulates multiple scenarios where the disclosure of Alteon discloses the recitations of Claims 5, 15, 25 and 27. *See* Examiner's Answer, pages 20-23. However, none of these scenarios disclose the recitations of these claims and further, these scenarios twist and distort the language of the claims and the cited references beyond their plain meaning. Accordingly, Appellants submit that the rejections with respect to these claims should be reversed for at least the reasons discussed in Appellants' Brief.

D. Claims 7, 15 and 16

Appellants submit that the rejections with respect to these claims should be reversed for at least the reasons discussed in Appellants' Brief.

E. The 112 Rejections –Claims 1-4, 24 and 26

Appellants submit that the rejections with respect to these claims should be reversed for at least the reasons discussed in Appellants' Brief.

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III. Conclusion

For the reasons set forth in above and in Appellants' Brief on Appeal, Appellants request reversal of the rejections of the claims, allowance of the claims and passing of the application to issue.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 24, 2006.

Rosa Lee Brinson